IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 20145 of 1995

Between:

S.B.Purnachandra Rao, S/o. S.B.Bheemaiah,
H.No. 2-3-43, Tarbang, Tavaipura,
Secunderabad.

..... PETITIONER

AND

1 The Additional Industrial Cum- Additional Labour court, By its Presiding officer, First Floor, Chandravihar Complex, N.J.Road, Hyderabad,
2 M/s. The Thana Electric supply Co., Ltd., represented by its General Manager (O) Mr. G.Subramanyam, ETE Transformer Division, Sanathnagar, Hyderabad,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or issue a direction or a writ particularly one in the nature of Certiorari and quash the Award dated 30-8-1994 in I.D.No. 320/1993 passed by the Addl.Industrial Tribunal-Cum-Addl.Labour, Court, Hyderabad, to the extent of not granting the back wages to the Petitioner and consequently to direct the management to pay all the back wages to the petitioner.

Counsel for the Petitioner : MR.B.G.RAVINDRA REDDY

Counsel for the Respondent No.1 : GP FOR LABOUR

Counsel for the Respondent No.2 : MR. P. NAGESWARA SREE

The Court made the following :

ORDER:

This writ petition is filed by the petitioner-workman aggrieved by the award passed by the 1st respondent-Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.320 of 1993, dated 30-08-1994, wherein it was directed the 2nd respondent to reinstate the petitioner into service with continuity of service and other attendant benefits but without any monetary benefits from the date of removal to the date of reinstatement.

As per the averments of the affidavit it is to be seen that the petitioner joined the service of the 2nd respondent organization on 04.05.1980 as a Semi Skilled 'A' Grade workman. While so, he was issued a charge sheet on 22.05.1985, alleging that he disobeyed the instructions of the superior. Again on 19.10.1985, he was issued another charge sheet stating that he abused a helper etc. Pursuant to the same, he submitted an explanation denying the charges made against him. According to the petitioner, the 2nd respondent conducted enquiry with their own men falsely and dismissed him from service, through order, dated 03.03.1988. Aggrieved by the same, the petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act (for short 'the Act') on 25.10.1990. The 2nd respondent-management filed a counter-affidavit therein denying the allegations made by the petitioner.

Before the Labour Court, no oral evidence was adduced on either side and no documents were marked on behalf of the petitioner-workman. However, on behalf of the 2nd respondent-management, Exs.M.1 to M.20 were marked.

After appreciation of the entire evidence available on record, the Court below came to the conclusion that the domestic enquiry conducted by the 2nd respondent was proper and valid. However, the learned Tribunal found that the charges 1 and 2 though proved, are not of such nature warranting removal of the petitioner from service and that the petitioner did the work entrusted to him, though initially he refused to stop the work being done by him and attended to some other work. It is further observed that the petitioner might have acted high handedly in slapping a

new worker as the latter refused to follow his instructions and further the 3rd charge is not of much important. However, this is not a case where the management ought to have imposed a stringent punishment of removal from service. Therefore, the Labour Court found that the punishment imposed on the workman-petitioner was disproportionate to that of the misconduct proved. Thus, while exercising powers under Section 11-A of the Act, the learned Tribunal directed the respondent-management to reinstate the petitioner into service with continuity of service and other attended benefits but without monetary benefits from the date of removal to the date of reinstatement. Aggrieved by the same, the present writ petition is filed.

I have gone through the entire evidence available on record and also the award passed by the Industrial Tribunal. The award passed by the Industrial Tribunal itself is showing some indulgence and lenient finding that though the charges are proved, they may not require removal of the petitioner from service. In fact, the petitioner indulged in using abusive language against his superiors apart from not following their instructions and attending to the duties entrusted to him. Further, the petitioner also slapped a new worker, who did not obey his instructions.

In the above circumstances, the Labour Court while exercising its power under Section 11-A of the Act and by taking a lenient view of the matter, passed the impugned award and hence, the petitioner does not deserve further indulgence for the relief prayed in this writ petition. The award passed by the Labour Court does not suffer from any legal infirmities warranting interference of this Court. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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(C.V.RAMULU,J)

Dated:31-01-2005

GJ

To

1 The Presiding Officer, Additional Industrial Cum- Additional Labour court, First Floor, Chandravihar Complex, N.J.Road, Hyderabad,
2 Two C.Cs. to the Government Pleader for Labour, High Court of A.P., Hyderabad. (OUT)

3 Two C.D. copies.